

HEALTH FACILITY COMMITTEE MEETING

Cannon Health Building, room 114

November 16, 2001, 9:00 am – 12:00 pm

Members Present: Galen Ewer; Kathleen Fitzgerald; Glade Bigler; Kathy Siskin; Gayle Morawetz; Helen Rollins; Mary Petersen; Keith Tintle; and Paul Clayton.

Members Excused: Joyce Wanta; Timothy Thomas; and Travis Jackman.

Staff Present: Debra Wynkoop; Larry Naylor; Wendee Pippy; Joel Hoffman; Donna Riley; and Joan Isom.

The Meeting was called to order at 9:09.

1. Welcome:

Ms. Siskin called the meeting to order.

2. Minutes of September 21, 2001:

Ms. Fitzgerald made a motion to accept the minutes with no corrections or additions. Dr. Clayton seconded the motion. The **MOTION PASSED** unanimously.

3. Old Business:

A. Update on Moratorium:

Ms. Thraen reported on the update of the data on the Long-term care Moratorium. (See handout) Ms. Thraen explained that the market for Long-term care facilities in 2001 is much more complex than it was in 1989. The Long-term care nursing facility census is lower in 2001 than when the moratorium was initiated.

Ms. Wynkoop stated a facility needs to have at least 75% occupancy to be financially viable.

Ms. Joan Gallegos, Utah Health Care Association, (UHCA) added that profitability for a nursing care facility is based on Private Pay, Medicaid, and Medicare. Those facilities whose only source of income is Medicaid are losing money. Ms. Gallegos stated that she agreed with the Department's conclusion that occupancy in the Wasatch front for nursing homes is low and that future bed expansion doesn't make

a lot of sense. However, she stated that the Department should look at occupancy in specific rural areas that continue to have 100% occupancy rate especially in areas such as Roosevelt, Vernal, Mayfield and the Four Corners area.

Ms. Thraen stated that there had been discussion on whether a community needs process should be initiated in those rural areas. The development of the Critical Care Access Hospital (CAH) category allows the acute beds to be used for long term care patients. Ms. Wynkoop stated that some of the rural areas have applied to have their General Acute Hospital license converted to a CAH category. These CAH conversions and additional beds are exempt from the Medicaid moratorium. Ms. Gallegos stated that the Utah Health Care Association has concerns about the long-term care industry. The concerns are: 1) Medicaid rates paid in Utah are the 7th worst in the nation for audited average allowable costs. Facilities are losing \$15.46 per resident per day based on the current reimbursement rate. Most of the expenses associated with these facilities have increased minimally, but nursing costs have skyrocketed; 2) Utah was the 4th worst in the nation in regards to nursing staff shortages. The average number of nurses has dropped dramatically in the last ten years. The UHCA and other associations are trying to find ways to alleviate the nursing shortage; 3) Medicare payment charges have reduced the budget by 17 billion dollars; 4) Nursing Home Administrators have left the industry because they have been held personally responsible if employees abuse or neglect patients, they have inadequate control over resources, they have to respond to owners for census problems and the family/ advocate pressures to improve quality of care; and the 5) Increases in medical malpractice due to inadequate and quality of care to patients.

Chad McNiven, Long-term Care Ombudsman, (LTCO) requested a copy of the power point presentation when it has been completed.

Mr. Ewer questioned what was going to be done with the data and recommendations they had collected? He suggested that when the Department analyzes the data collected, that they use the lowest need projection for additional bed capacity. The nationwide trend is to buy out or close nursing homes because the need for nursing home beds has diminished. Mr. Ewer and Ms. Gallegos agreed that nurses need more training to prepare them to be the director of nurses. Ms. Siskin questioned why a rural community did not challenge the nursing home moratorium if there is an identified need? Ms. Thraen stated that the CAH category was created to provide additional beds in the rural communities. Ms. Wynkoop stated that in 1996, the city of Moroni did challenge the moratorium based on need however, community based aging services were increased vs. creating a new building. Mr. Ewer stated that based on the Medicaid reimbursement it would not be cost effective to build a new facility, given the allowable reimbursement amount since the majority of rural residents are Medicaid residents.

Ms. Wynkoop explained that new nursing replacement facilities have been built in the rural areas, however the resident's wishes were not included in the design. Residents have expressed the desire for private rooms, which Medicaid does not

pay for. Ms. Gallegos stated that the family may pay the difference between the semi-private room and the private room reimbursement if they desire. The Bureau will continue to monitor the facility growth and census in all counties.

B. End of Life Sub-committee Report:

Ms. Rollins discussed the proposed rule that the Sub-committee had suggested. The End-of-Life rule was expanded to include all categories of health care facilities and adds a civil money penalty. The sub-committee continues to research and refine the proposed language. The Emergency Medical providers will be a primary partner in the success of the initiative.

Mr. Ewer stated that the rule implies that everyone must complete the form. Ms. Wynkoop identified that the portability form has an area for those not wishing to sign. Mr. Bigler stated that the last draft of the form is good. Mr. McNiven expressed his concern regarding changes of the form and the competency of the resident. Mr. Bigler stated that an individual is presumed competent unless otherwise determined by a judge. Ms. Wynkoop stated that any further statutory changes will not be proposed this year, but may be proposed next year. Ms. Carmen Sonom, Salt Lake County Aging, recommended that on R432-31-3 (3) the “shall assist or shall advise” should be changed to “may”. Ms. Gallegos stated that the Utah Health Care Association likes the portability form so much that many of the facilities have voluntarily adopted its use.

C. Patient Safety Task Force:

Ms. Wynkoop reported to the committee that the rule is now in effect. The reporting form has been put on the web site and may be downloaded and copied. She reminded the committee that their role is to select the criteria for the auditor of the Patient Safety reports.

D. Construction Rule Sub-committee:

Mr. Naylor stated that the committee had met once on October 18, 2001 and modifications have been made on the proposed rule changes. He explained that once the concept summary is approved; the rule draft will be completed and brought to the Health Facility Committee for approval.

E. Influenza – Pneumococcal Vaccines Subcommittee:

Linda Abel, Program Manager Immunization, is working on the draft of the rule. The sub-committee will have its first meeting on December 5, 2001.

F. Rule Update:

1. Ambulatory Surgical Center Rule:
R432-500-8 could become final on December 18, 2001.

2. Background Screening Rule:
A request for the Bureau to perform screenings for employment agencies has been denied. Ms. Wynkoop explained that statutorily the Bureau is allowed to do background screening only on individuals who are in a covered health care facility. The facility must submit the request.
3. Change of Ownership:
R432-2. Legal counsel is still working on the language.

4. New Business:

A. Feasibility Study Sub-committee:

This will create a forum for public comment on any new proposed health care facility or agency. Public feedback will be collected and then given back to the proposed provider to help them determine if there is a need for the proposed service. Ms. Wynkoop stated that due diligence is not being done and this will ensure that due diligence is done before another facility is built. Keith Tintle volunteered to be the chairman and Gayle Morawetz will co-chair this committee. Ms. Wynkoop stated that she will contact the Utah Health Care Association, the Utah Hospital Association, the Utah Assisted Living Association, and the Utah Home Health Association to obtain names of representatives to sit on this committee. A staff person from the Bureau will be assigned. Ms. Peterson made a motion to develop a sub-committee for the feasibility study. The **MOTION PASSED** unanimously.

B. Long-term Care Hospital Sub-committee:

Ms. Wynkoop explained this committee will review Chronic Disease Specialty hospitals, hospital care and how we license them. Dr. Clayton questioned whether this sub-committee will look at the hospital rules? Ms. Wynkoop clarified that this committee will only look at the Chronic Disease Hospital rules. Mr. Tintle made a motion that a sub-committee to work on the Long-term Care hospital rule be created. Ms. Rollins seconded the motion. The **MOTION PASSED** unanimously. Dr. Paul Clayton will chair the committee with Kathleen Fitzgerald as the co-chairperson. Ms. Wynkoop stated that the majority of the sub-committee members have been nominated.

C. CNA Certification:

Ms. Wynkoop explained the history of the single certification for the Home Health Aides and the Certified Nurse Aides to increase the worker pool. Susan Lewson, Davis Applied Training Center, (DATC) reported that the DATC has translated the written test into Spanish and provided an audio test in Navajo to address the cultural needs of the communities.

Ms. Lewson reported that the Salt Lake County classes are full, but the majority of those graduates want to work in a hospital setting. There are 38,000 aides on the registry, but only 11,000 of those are certified.

Ms. Fitzgerald expressed concern that having a single certification has reduced the nursing pool. Many of the individuals cannot afford \$300.00 for the course.

Ms. Lewson clarified that after the first semester of nursing school a student may challenge the CNA test. Ms. Lewson stated that Salt Lake Community College has developed an open entry competency based program where the individual moves at their own pace to complete the 80 hours required.

5. Other Business:

Mr. Bigler reported that he received a publication outlining malpractice litigation in nursing care facilities. Ms. Wykoop agreed that facilities have reported that their insurance rates have increased due to the increase of litigation. Chad McNiven, LTCO, stated that he had followed the litigation in Texas and Florida and found that the majority of the lawsuits were won because of a continual pattern of harm to residents.

Ms. Wynkoop stated that we may need to reschedule our next Health Facility Committee meeting from February 8, 2002 to a different day.

Kathy Siskin, Chairperson Debra Wynkoop, Executive Secretary